



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/272,845	03/19/1999	DOUGLAS L ROLLINS	MICE-0017-US	6156

7590 06/12/2002

COE F MILES
TROP PRUNER HU & MILES
8554 KATY FREEWAY STE 100
HOUSTON, TX 77024

EXAMINER

KENDALL, CHUCK O

ART UNIT

PAPER NUMBER

2122

DATE MAILED: 06/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	09/272,845	ROLLINS, DOUGLAS L
	Examiner	Art Unit
	Chuck O Kendall	2122

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: ____.

3. Applicant's reply has overcome the following rejection(s): 112 rejections for claims 41 and 43.
4. Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

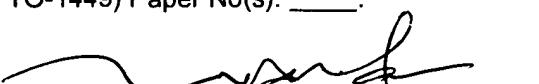
Claim(s) allowed: ____.

Claim(s) objected to: 39.

Claim(s) rejected: 1-44.

Claim(s) withdrawn from consideration: ____.

8. The proposed drawing correction filed on ____ is a) approved or b) disapproved by the Examiner.
9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). ____.
10. Other: ____



TUAN Q. DAM
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that Prior art provides no motivation to combine, Apfel and Furner. Examiner Disagrees. In claim 1, Apfel does not disclose associating Hardware Circuitry with Software. However, Furner teaches this functionality through loading Device Drivers for associated Circuitry. Device drivers are software programs which have hardware implementations. Updating, Upgrading and Installing software add new functionality or fixes to outdated software, therefore if a hardware implementation requires updating or upgrading software / device drivers, then it is installed/loaded to provide this new functionality or fix. Both inventions provide a way to install and configure software therefore, there is a motivation to combine if a hardware circuitry is to be updated, upgraded, patched or reinstalled via software / device drivers as disclosed in Furner per previous rejection. Examiner would also like Applicant to note that claim objection not considered from previous rejection of 2/6/02 still places claim 39 objection status and an allowance can't be issued until objection is overcome.

Regarding Applicants argument on page 2 second paragraph of Applicant's amendment of 4-9-02, Applicant asserts that Apfel teaches away from compatibility during updating. Contrary to Applicants assertion, Apfel does disclose compatibility during updating as noted in previous rejection of 2-6-02, see page 5 last paragraph. Therefore there is a motivation to combine since Apfel does suggests compatibility issues during updating.